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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,577	01/19/2006	Detlef Busch	05581-00136-US	7244
23416 7590 07/10/2009 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899				
EXAMINER				
NAKARANI, DHIRAJLAL S				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
07/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,577

Applicant(s)

BUSCH ET AL.

Examiner

D. S. Nakanari

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard et al (EP 0 906 373 B1) in view of Knoerzer (U. S. Patent 5,525,421) for the reasons of record set forth in paragraph 5 of the Office Action mailed December 11, 2008 (Paper Number 20081208).
3. Applicant's arguments filed April 13, 2009 have been fully considered but they are not persuasive. In reference to rejection of claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over Hubbard et al (EP 0 906 373 B1) in view of Knoerzer (U. S. Patent 5,525,421), applicants essentially argue that Hubbard et al teach barrier layer comprising polysilicate and layered silicate applied over the primer coat of polyvinyl alcohol which is applied to the polyolefin substrate. Hubbard et al do not disclose that there is a problem of adhesion between polyvinyl alcohol and the polyolefin substrate. The Example 8 of the present specification shows that PVOH primer and polysilicate coating without the vermiculite on a non-modified polyolefin film results only in an oxygen barrier of 6.41. Applicants state that Knoerzer improved adhesion between the PVOH primer layer and the polyolefin film. But this never was a problem with the silicate coated film. Therefore this teaching does not provide any motivation to try such modified polyolefin film for improving the barrier of the polysilicate coating.

These arguments are unpersuasive because Knoerzer clearly teach modified polyolefin provides improved adhesion to PVOH. In the present invention Example VB 3 shows better oxygen barrier property with PVOH layer on modified polyolefin surface compared to that of

unmodified polyolefin surface Example VB 4. Example VB 3 has better oxygen barrier property compared to the Example VB 5 which has a polysilicate layer directly on modified polyolefin surface. There is nothing on record showing that there is no adhesion problem between the PVOH layer and the polyolefin substrate when the surface of PVOH layer, which is not in contact with polyolefin substrate, is coated with the polysilicate. From the teaching of Knoerzer, it is clear that to bond PVOH layer to the unmodified polyolefin substrate needs either PEI primer or modified polyolefin layer. There is no showing that the polyolefin substrate primed with PEI is coated with PVOH layer followed by polysilicate layer would not give similarly improved oxygen barrier properties. Claimed invention is an open language and is inclusive of additional components, such as layered silicate, which are not specified in the claimed invention.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie E. Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/D. S. Nakarani/
Primary Examiner, Art Unit 1794**

DSN
July 7, 2009.